

(2025) 12 UK CK 0026

Uttarakhand HC

Case No: Criminal Appeal No. 122, 127 Of 2017

Chandan Kumar Soni & Others

APPELLANT

Vs

State Of Uttarakhand

RESPONDENT

Date of Decision: Dec. 16, 2025**Acts Referred:**

- Prevention Of Corruption Act, 1988 - Section 7, 13(1)(d), 13(2)
- Indian Penal Code, 1860 - Section 120B
- Evidence Act, 1872 - Section 65B

Hon'ble Judges: Ashish Naithani, J**Bench:** Single Bench**Advocate:** Arvind Vashishta, Vivek Pathak, Vipul Painuly**Final Decision:** Allowed

Judgement

Ashish Naithani, J

1. These appeals arise from a common judgment and order dated 24.04.2017 passed by the Special Judge (Prevention of Corruption Act)/I Additional Sessions Judge, Nainital, in Special Sessions Trial No. 05 of 2016, whereby both Appellant s, namely C.K. Soni and Brijesh Kumar Singh Bhoj, were convicted of offences under Sections 7 and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988, as well as Section 120-B IPC. Aggrieved by their conviction and sentence, both accused have preferred the present appeals. Since the facts and issues involved are common, the appeals are being decided together.

2. The case originates from a complaint alleging demand for illegal gratification in relation to the release of certain payments pertaining to the supply work undertaken at Kumaon Engineering College, Dwarahat. On the basis of the said complaint, a trap was organized by the vigilance establishment, and an FIR was lodged naming both Appellant s. Upon completion of the investigation, a charge sheet was submitted, and the matter proceeded to trial. The trial court, relying upon

the testimony of the complainant and the trap team, recorded findings of demand, recovery, and conspiracy, and accordingly convicted both accused under the provisions of the Prevention of Corruption Act and Section 120-B IPC. Both Appellants have challenged the correctness of these findings in the present appeals.

3. Heard learned counsel for the parties and perused the records.

4. Learned Senior Counsel for the Appellants submitted that the conviction recorded by the trial court is unsustainable, as the essential ingredient of demand has not been proved against either of the Appellants. It was argued that no witness attributed any direct demand to Appellant Chandra Kumar Soni, and the entire finding against him rests on hearsay and inadmissible material. The alleged electronic evidence has not been proved in accordance with Section 65B of the Evidence Act and, therefore, could not have been relied upon by the trial court.

5. It was further contended that the trial court overlooked material evidence indicating that Appellant Soni had no role in sanction or release of payment, and that the finding of conspiracy is wholly without basis.

6. As regards Appellant Brijesh Kumar Singh Bhoj, it was submitted that even though recovery is alleged, the State has failed to establish a legally proved demand, which is a mandatory requirement. The complainants testimony suffers from contradictions, and the trap proceedings lack the necessary link evidence, including proper proof of phenolphthalein handling.

7. Learned counsel argued that mere recovery, without proof of demand and voluntary acceptance, is insufficient to sustain a conviction under the Prevention of Corruption Act. It was urged that the trial court misread the evidence, relied on inadmissible material, and overlooked significant infirmities, resulting in findings that are perverse and contrary to settled law. The Appellants, therefore, seek acquittal.

8. Learned counsel for the State supported the judgment of the trial court and submitted that the findings of conviction were recorded after a careful appreciation of the evidence led by the prosecution. It was argued that the complainant had consistently stated that illegal gratification was demanded in connection with the release of payment, and that the trap proceedings were conducted in accordance with the prescribed procedure. The State contended that the recovery of currency notes from Appellant Brijesh Kumar Singh Bhoj, immediately after the trap, forms a strong incriminating circumstance corroborating the complainants version.

9. It was further submitted that the prosecution witnesses, particularly the members of the trap team, stood firm during cross-examination and their core testimony remained unshaken. The learned counsel for the State argued that minor discrepancies in the narration of events are natural and do not undermine the substance of the States case.

10. It was urged that the trial court had rightly relied on the overall chain of circumstances, including prior interaction between the complainant and the accused persons, the trap proceedings, and the conduct of the accused, to conclude that the demand and acceptance stood proved.

11. The learned AGA also submitted that the trial court was justified in drawing an inference of conspiracy, as both Appellant s acted in coordination and the circumstances established during trial indicated a common course of conduct. It was argued that the High Court, in exercise of appellate jurisdiction, should not lightly interfere with concurrent findings of fact recorded by the trial court unless they are perverse, which, according to the State, is not the case here. The State, therefore, prayed for dismissal of the appeals.

12. Upon an anxious and comprehensive consideration of the entire record and the reasons assigned by the trial court, this Court is constrained to hold that the conviction of the Appellant s rests on a foundation which does not meet the exacting standard of proof required in a criminal trial, particularly in prosecutions under the Prevention of Corruption Act. The trial court has proceeded on the premise that demand and acceptance of illegal gratification stood established against both Appellant s; however, a careful reading of the judgment reveals that it does not refer to any clear, specific, cogent and legally admissible piece of evidence demonstrating a definite demand attributable to either of them. The trial court has, instead, drawn inferences from broad circumstances and assumptions, without first securing a proper evidentiary basis.

13. Insofar as Appellant Chandan Kumar Soni is concerned, the position is even more stark. None of the material witnesses has alleged that he directly demanded any money from the complainant. His supposed involvement is inferred almost entirely from what is said to have been stated by the co-accused and from electronic material which has not been brought on record in the manner the law insists upon. The trial courts approach in treating such unproven material as the basis of conviction discloses a serious misdirection both in law and in fact.

14. When the evidence is analysed with reference to Appellant Chandan Kumar Soni, it emerges that the complainant did not depose to any independent interaction with him in which any amount was demanded, or any threat, inducement or assurance was held out. The narrative of the complainant, at its highest, suggests that he was made to believe by the co-accused that the Appellant was involved; however, that belief remains wholly uncorroborated by any independent evidence. There is no contemporaneous document, no recorded conversation proved in accordance with law, and no witness other than the complainant to support the allegation that Appellant Soni participated in any act of demand or acceptance of illegal gratification.

15. Equally important is the admitted position emerging from the record that the Appellant was not the authority responsible for final sanction or release of the complainants bills. The institutional witness clearly indicates that the financial and administrative structure of the institution did not vest such power in the Registrar. This fact, which goes to the root of the alleged motive and capacity to influence payment, has been ignored by the trial court, thereby rendering its finding against Soni unsustainable even on the factual premise it has adopted.

16. On the contrary, the testimony of the institutional witness, read with the relevant documents, makes it explicit that the Registrar was not the competent or final authority for passing, sanctioning or releasing the complainants dues. Once that is so, the very basis on which the State has attempted to connect Appellant Chandan Kumar Soni to the alleged demand stands substantially weakened.

17. The entire case against him is thereafter sought to be propped up through an alleged telephonic conversation. However, the State has not produced call detail records to show that such a call was in fact made from or to any number associated with the Appellant, and no voice identification has been conducted to attribute the voice in the alleged recording to him.

18. Equally significant is the fact that no certification, as required for proving electronic records, has been placed on record. In the absence of these basic foundational requirements, the alleged telephonic conversation remains no more than an unproven assertion.

19. It is well settled that unproven electronic material cannot be treated as substantive evidence, much less as the sole basis for returning a finding of guilt. Where the factum of demand itself is not established through reliable and admissible evidence, the legal edifice of conviction under the relevant provisions collapses. In these circumstances, the conviction of Appellant Chandan Kumar Soni is not merely unsafe; it is wholly unsustainable and cannot be allowed to stand.

20. Turning now to Appellant Brijesh Kumar Singh Bhoj, this Court finds that the trial court has placed decisive, almost exclusive, reliance on the alleged recovery of money during the trap proceedings and has treated such recovery as sufficient, in itself, to infer demand and acceptance.

21. On a careful re-appraisal of the testimonies of the complainant and the members of the trap team, this Court is unable to concur with that conclusion. The complainants version in relation to the initial demand, the subsequent reiteration of the demand and the circumstances immediately preceding the trap is not uniform. His statement contains improvements and omissions on material aspects, including the exact date, nature and words of demand as well as the role allegedly played by each Appellant. These variations have not been satisfactorily explained.

22. The members of the trap team, while broadly supporting the fact that a trap was organized, do not, upon closer scrutiny, furnish a clear and consistent account which would establish that there was a specific, prior demand made by Appellant Brijesh Kumar Singh Bhoj and that the money was voluntarily accepted by him as illegal gratification pursuant to such demand. The trial court has unfortunately overlooked these infirmities and has assumed demand merely because recovery is alleged.

23. The material relating to the preparation and execution of the trap, including the handling of phenolphthalein powder, the manner in which the tainted currency was treated, and the subsequent testing, has also not been proved with that degree of precision and certainty which would exclude reasonable doubt.

24. There are gaps in the States version as to who handled the money at what point, how exactly the tainted notes allegedly came into the possession of Appellant Bhoj, and whether proper precautions were taken to preclude possibilities of contamination, planting or inadvertent contact. The link evidence, which should have demonstrated an unbroken and reliable chain from the initial demand to the final recovery, is thus incomplete.

25. In this evidentiary backdrop, mere recovery of currency notes from or near an accused, without a clearly established prior demand and voluntary, conscious acceptance as illegal gratification, cannot legitimately be treated as conclusive proof of guilt. To sustain a conviction on such a tenuous basis would be to dilute the settled standard of proof in criminal jurisprudence and would run contrary to the requirement that suspicion, however strong, cannot take the place of proof.

26. The conclusion of the trial court in relation to conspiracy is equally unsupportable. A finding of conspiracy must rest on material that indicates some form of agreement or concerted action between the alleged conspirators.

27. In the present case, apart from the already doubtful assertion that the Appellants were both interested in obtaining money from the complainant, there is no independent evidence to show that they acted pursuant to any shared plan or understanding.

28. The State has not adduced any document, communication or conduct from which a meeting of minds between the Appellants could safely be inferred. Instead, the trial court appears to have inferred conspiracy simply because both Appellants stood charged in the same transaction. When the primary allegations of demand and acceptance against each of them are themselves under serious doubt, any superimposed finding of conspiracy, based on the same doubtful facts, cannot survive. The substratum of the States case being weak and unreliable, a charge of conspiracy erected on that substratum necessarily falls.

29. This Court is fully conscious that in an appeal against conviction, interference with findings of fact is not to be undertaken lightly. However, it is equally well settled that appellate intervention becomes not only permissible but imperative where the trial court has misdirected itself in law, has relied upon inadmissible or unproven material, or has drawn conclusions which no reasonable court could reach on the evidence actually available.

30. Having undertaken a holistic and independent re-appraisal of the entire record, this Court is satisfied that the view adopted by the trial court is not a reasonably possible view on the material before it. The conclusions of guilt are founded more on conjecture, surmise and suspicion than on solid proof.

31. The cumulative effect of the infirmities identified above, absence of legally proved demand, lack of admissible evidence connecting Appellant Soni, inconsistencies in the complainants testimony, deficiencies in the trap proceedings, and the absence of any reliable material to establish conspiracy strikes at the root of the States case.

32. These defects generate a serious and reasonable doubt which, in the criminal justice system, must necessarily ensure to the benefit of the accused. The conviction of both Appellants, therefore, cannot be sustained and is liable to be set aside.

33. In view of the foregoing discussion, this Court is of the considered opinion that the State has failed to establish, beyond a reasonable doubt, the essential ingredients of the offences alleged against either of the Appellants. The findings of the trial court on demand, acceptance and conspiracy are unsustainable, having been arrived at by relying on inadmissible material and by overlooking material inconsistencies and exculpatory circumstances. The Appellants are, therefore, entitled to the benefit of doubt.

ORDER

Accordingly, both the appeals are **allowed**. The judgment and order of conviction and sentence dated 24.04.2017, passed by the Special Judge (Prevention of Corruption Act)/I Additional Sessions Judge, Nainital, are set aside. Both Appellants, C.K. Soni and Brijesh Kumar Singh Bhoj, are acquitted of all charges. If they are in custody, they shall be released forthwith, if not required in any other case. Their bail bonds, if any, stand discharged.

Let the lower court record be remitted back without delay.